

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 421

BY SENATORS TARR, ROBERTS, AND WOODRUM

[Introduced February 23, 2021; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §21A-2-6 of the Code of West Virginia, 1931, as amended, relating
 2 to the general powers and duties of the Commissioner of Workforce West Virginia; and
 3 authorizing the agency to hire additional employees to serve at the will and pleasure of
 4 the commissioner.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 2. THE COMMISSIONER OF ~~THE BUREAU OF EMPLOYMENT~~
 PROGRAMS WORKFORCE WEST VIRGINIA.**

§ 21A-2-6 Powers and duties generally

1 The commissioner is the executive and administrative head of ~~the bureau~~ Workforce West
 2 Virginia and has the power and duty to:

3 (1) Exercise general supervision for the governance of ~~the bureau~~ Workforce West Virginia
 4 and propose rules for promulgation in accordance with the provisions of ~~article three, chapter~~
 5 ~~twenty-nine-a of this code~~ §29A-3-1 et seq. to implement the requirements of this chapter;

6 (2) Prescribe uniform rules pertaining to investigations, departmental hearings and
 7 propose rules for promulgation;

8 (3) Supervise fiscal affairs and responsibilities of ~~the bureau~~ Workforce West Virginia;

9 (4) Prescribe the qualifications of, appoint, remove and fix the compensation of the officers
 10 and employees of ~~the bureau~~ Workforce West Virginia, subject to the provisions of ~~section ten,~~
 11 ~~article four of this chapter~~ §21A-4-10, relating to the board of review;

12 (5) Organize and administer ~~the bureau~~ Workforce West Virginia so as to comply with the
 13 requirements of this chapter and to satisfy any conditions established in applicable federal law or
 14 regulation;

15 (6) Make reports in the form and containing information required by the United States
 16 Department of Labor and comply with any requirements that the United States Department of
 17 Labor finds necessary to assure the correctness and verification of the reports;

18 (7) Make available to any agency of the United States charged with the administration of
19 public works or assistance through public employment, upon its request, the name, address,
20 ordinary occupation and employment status of each recipient of unemployment compensation
21 and a statement of the recipient's rights to further compensation under this chapter;

22 (8) Keep an accurate and complete record of all bureau proceedings, record and file all
23 bonds and contracts and assume responsibility for the custody and preservation of all papers and
24 documents of ~~the bureau~~ Workforce West Virginia;

25 (9) Sign and execute in the name of the state, by ~~the "Bureau of Employment Programs"~~
26 "Workforce West Virginia," any contract or agreement with the federal government, its agencies,
27 other states, their subdivisions or private persons;

28 (10) Prescribe a salary scale to govern compensation of appointees and employees of ~~the~~
29 ~~bureau~~ Workforce West Virginia;

30 (11) Exempt up to 100 positions of the offices of WorkForce West Virginia from the
31 classified service of the state, the employees of which positions shall serve at the will and pleasure
32 of the commissioner: *Provided*, That such exempt positions shall be in addition to those positions
33 in classified-exempt service under the classification plan adopted by the Division of Personnel.
34 The WorkForce West Virginia Commissioner shall report all exemptions made under this section
35 to the Director of the Division of Personnel as the commissioner determines to be necessary;

36 ~~(14)~~ (12) Make the original determination of right in claims for benefits;

37 ~~(12)~~ (13) Make recommendations and an annual report to the Governor concerning the
38 condition, operation and functioning of ~~the bureau~~ Workforce West Virginia;

39 ~~(13)~~ (14) Invoke any legal or special remedy for the enforcement of orders or the provisions
40 of this chapter;

41 ~~(14)~~ (15) Exercise any other power necessary to standardize administration, expedite
42 ~~bureau~~ Workforce West Virginia business, assure the establishment of fair rules and promote the
43 efficiency of the service;

44 ~~(15)~~ (16) Keep an accurate and complete record and prepare a monthly report of the
45 number of persons employed and unemployed in the state. The report shall be made available
46 upon request to members of the public and press;

47 ~~(16)~~ (17) Provide at ~~bureau~~ Workforce West Virginia expense a program of continuing
48 professional, technical and specialized instruction for the personnel of ~~the bureau~~ Workforce West
49 Virginia;

50 ~~(17)~~ (18) (A) Propose rules for legislative approval in accordance with the provisions of
51 ~~article three, chapter twenty-nine-a of this code~~ §29A-3-1 et seq., under which agencies of this
52 state shall revoke or not grant, issue or renew any contract, license, permit, certificate or other
53 authority to conduct a trade, profession or business to or with any employing unit whose account
54 is in default with the commissioner with regard to the administration of this chapter. The term
55 "agency" includes any unit of state government such as officers, agencies, divisions, departments,
56 boards, commissions, authorities or public corporations. An employing unit is not in default if it
57 has entered into a repayment agreement with the Unemployment Compensation Division of ~~the~~
58 ~~bureau~~ Workforce West Virginia and remains in compliance with its obligations under the
59 repayment agreement.

60 (B) The rules shall provide that, before revoking, granting, issuing or renewing any
61 contract, license, permit, certificate or other authority to conduct a trade, profession or business
62 to or with any employing unit, the designated agencies shall review a list or lists provided by ~~the~~
63 ~~bureau of employers~~ Workforce West Virginia that are in default. If the employing unit's name is
64 not on the list, the agency, unless it has actual knowledge that the employing unit is in default with
65 ~~the bureau~~ Workforce West Virginia, may grant, issue or renew the contract, license, permit,
66 certificate or other authority to conduct a trade, profession or business. The list may be provided
67 to the agency in the form of a computerized database or databases that the agency can access.
68 Any objections to the revocation or refusal to issue or renew shall be reviewed under the
69 appropriate provisions of this chapter.

70 (C) The rules may be promulgated or implemented in phases so that specific agencies or
71 specific types of contracts, licenses, permits, certificates or other authority to conduct trades,
72 professions or businesses will be subject to the rules beginning on different dates. The
73 presumptions of ownership or control contained in the Department of Environmental Protection's
74 surface mining reclamation regulations promulgated under the provisions of ~~article three, chapter~~
75 ~~twenty-two of this code §22-3-1 et seq.~~ are not applicable or controlling in determining the identity
76 of employing units who are in default for the purposes of this subdivision. The rules shall also
77 provide a procedure allowing any agency or interested person, after being covered under the
78 rules for at least one year, to petition ~~the Bureau of Employment Programs~~ Workforce West
79 Virginia to be exempt from the provisions of the rules;

80 ~~(18)~~ (19) Deposit to the credit of the appropriate special revenue account or fund,
81 notwithstanding any other provision of this code and to the extent allowed by federal law, all
82 amounts of delinquent payments or overpayments, interest and penalties thereon and attorneys'
83 fees and costs collected under the provisions of this chapter. The amounts collected shall not be
84 treated by the Auditor or Treasurer as part of the general revenue of the state; and

85 ~~(19)~~ (20) Enter into interagency agreements to assist in exchanging information and
86 fulfilling the provisions of this article.

NOTE: The purpose of this bill is to authorize Workforce West Virginia to hire additional employees to serve at the Commissioner's will and pleasure.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.